

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

LAKEISHA N. BURNEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 1:07-CR-00137(1)  
JUDGE GREGORY L. FROST

ORDER

This matter is before the Court on defendant's *Motion Requesting that the Court Intercede on Petitioners' Behalf in Order to Ensure a Successful Re-Entry into Society via the Second Chance Act Prisoner Reentry Initiative of 2007*, ECF No. 78, (*"Defendant's Motion"*). Defendant Lakeisha N. Burney was convicted, on her plea of guilty, to two counts of bank robbery. On April 4, 2008, defendant was sentenced to 125 months' imprisonment. *Judgment*, ECF No. 35. The Bureau of Prisons' ("BOP") web site, <http://www.bop.gov>, indicates that defendant's release date is September 18, 2017. Defendant alleges that her "Home Detention Eligibility" date is March 18, 2017. *Defendant's Motion*, PAGEID# 393

In *Defendant's Motion*, defendant "asks for judicial recommendations for placement in Community Corrections or Home Confinement pursuant to 18 USC 3621(b) and 18 USC 3624(c)." *Id.*, at PAGEID# 394. "By allowing petitioner to serve the remainder of her sentence at a CCM (halfway) house, petitioner will be able to adjust

at a rate that will not be overwhelming, nor will it allow or promote previous behavior that was the result of the petitioners' incarceration." *Id.*, at PAGEID# 394-95 [sic]. This Court has no authority to grant the relief requested by defendant.

The BOP is charged by statute with designating the place of a prisoner's imprisonment. 18 U.S.C. § 3621(b). The BOP must make that designation after considering certain enumerated factors. *Id.* The BOP is also charged by statute with facilitating a prisoner's reentry into society. 18 U.S.C. § 3624(c). The Second Chance Act of 2007, 42 U.S.C. § 17501, provides that the BOP Director shall "ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community." Second Chance Act, Pub. L. 110-199, § 251, 122 Stat. 660, 692 (2008). In doing so, however, the BOP must consider the factors set forth in 18 U.S.C. § 3621(b). *Keeper v. Lappen*, (N.D. Ohio May 18, 2010).

A prisoner has no constitutional right to be placed in a community correctional center earlier than the date on which the BOP assigns her, so long as the BOP has considered the factors enumerated in 18 U.S.C. § 3621(b). Because Congress has vested in the BOP the right to exercise complete and absolute discretion in matters relating to the incarceration and classification of a lawfully convicted prisoner, 18 U.S.C. § 3621, this Court is without authority to direct the terms of defendant's incarceration. Moreover, a prisoner has no

constitutional right to serve her sentence in a facility of her choosing. *Beard v. Livesay*, 798 F.2d 874 (6<sup>th</sup> Cir. 1986). Similarly, a prisoner has no constitutional right to release prior to the expiration of her sentence. *Greenholtz v. Inmates of Nebraska Penal & Correctional Complex*, 442 U.S. 1, 7 (1979). Finally, to the extent that Defendant's Motion may be construed as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, the matter must be dismissed, in light of defendant's failure to affirmatively allege that she has exhausted her administrative remedies. See *Little v. Hopkins*, 638 F.2d 953 (6<sup>th</sup> Cir. 1981) ("It is well established that federal prisoners complaining of events or conditions relating to their custody must exhaust their administrative remedies before habeas relief may be granted.").

For all these reasons, defendant's *Motion Requesting that the Court Intercede on Petitioners' Behalf in Order to Ensure a Successful Re-Entry into Society via the Second Chance Act Prisoner Reentry Initiative of 2007*, ECF No. 78, is **DENIED**.

**IT IS SO ORDERED.**

/s/ GREGORY L. FROST  
GREGORY L. FROST  
United States District Judge